

**\*AMENDED APS-197**

**April 7, 2005**

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

C.A. No. **05-1971**

IN RE: DANIEL M. PASKINS, JR.

Present: SLOVITER, NYGAARD and FUENTES, Circuit Judges

Submitted are:

- (1) Petitioner's application under 28 U.S.C. § 2244 for leave to file a second or successive petition under 28 U.S.C. § 2254;
- (2) Respondent's response in opposition thereto; and
- \*(3) Petitioner's Response entitled "Federal Constitutional Right to Preliminary Hearing" in the above-captioned case.**

Respectfully,

Clerk

MMW/EAW/zm/slc

**ORDER**

Petitioner's application under 28 U.S.C. § 2244 for leave to file a second or successive petition under 28 U.S.C. § 2254 is denied. The proposed petition would have been an abuse of the writ under pre-AEDPA law; thus, the AEDPA's gatekeeping standards apply. See In re Minarik, 166 F.3d 591, 602 (3d Cir. 1999). Because Petitioner's claim does not rely on a "new rule of constitutional law," or a previously unavailable factual predicate sufficient to establish that no reasonable factfinder would have found him guilty, the claim that petitioner seeks to present do not meet the requirements of 28 U.S.C. § 2244(b)(2).



*Marcia M. Waldron*

Marcia M. Waldron, Clerk

By the Court,

/s/ Richard L. Nygaard  
Circuit Judge

Dated: April 25, 2005

SLC/cc: Mr. Daniel M. Paskins, Jr., #203178

Loren C. Meyers, Esq.